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10 **UNITED STATES DISTRICT COURT**
11 **WESTERN DISTRICT OF WASHINGTON**
12 **AT TACOMA**

13 KATYE HURLBUT and DUSTIN
14 HURLBUT, and the marital community
15 comprised thereof,

16 Plaintiffs,

17 NO.

18 **COMPLAINT FOR DAMAGES**

19 Demand for Jury Trial

20 UNITED STATES; MADIGAN ARMY
21 MEDICAL CENTER, a governmental
22 entity; JANE and JOHN DOES 1-10, in
23 their respective individual capacities,

24 Defendants,

25 COMES NOW Plaintiffs, by and through their attorneys at Pfau Cochran Vertetis
26 Amala, PLLC and Fong Law Office, for cause of action against Defendants and alleges as
follows:

COMPLAINT FOR DAMAGES

I. PARTIES

1. Plaintiffs Katye Hurlbut and Dustin Hurlbut. At all times material, Katye Hurlbut and Dustin Hurlbut, a married couple, were residents of Orting, Washington.

2. Defendant Madigan Army Medical Center, United States. The United States of America, through the Department of Defense, operates the Madigan Army Medical Center on Joint Base Lewis-McChord in Pierce County, Washington. Under the Federal Tort Claims Act (28 U.S.C. §§ 2679(a) & 1346(b)), the United States is the proper party defendant in any matter brought pursuant to the Federal Tort Claims Act. Madigan Army Medical Center employed Gagandeep Dhillon, who was working within the scope of his employment when he encountered Katye Hurlbut.

3. Jane and John Does 1-10. Defendant Jane and John Does 1-10 are individuals and/or entities, as yet undetermined, who engaged in acts and omissions that proximately resulted in Plaintiff's damages.

II. JURISDICTION AND VENUE

4. Jurisdiction. This Court has jurisdiction over this matter under 28 U.S.C. § 1346(b). This Court has original jurisdiction over claims against the United States.

5. Venue. The events giving rise to this lawsuit occurred in Pierce County, Washington. Venue is proper in this district under 28 U.S.C. § 1391(e) and/or § 1391(b)(2).

6. Notice. Plaintiff has served a tort claim form in accordance with 28 C.F.R. § 14.1 *et seq.* The United States issued a denial from the tort claims adjuster on September 6, 2022.

III. FACTS

7. On September 30, 2019, Katye Hurlbut was admitted to Madigan Army Medical Center for concerns of pulmonary emboli.

8. During her admission, a venous Doppler ultrasound was ordered to evaluate her legs for blood clots.

9. Ms. Hurlbut was transported via wheelchair to the ultrasound lab.

10. The ultrasound lab technician for Madigan Army Medical Center was Gagandeep Dhillon.

11. During the procedure, in which Dhillon was acting within the scope of his employment, Dhillon made offensive and sexualized comments to Ms. Hurlbut.

12. Dhillon's comments made Ms. Hurlbut feel uncomfortable.

13. During the procedure, Dhillon used the ultrasound probe in an offensive and sexualized manner. Dhillon placed the probe near Ms. Hurlbut's genitalia in an attempt to sexually arouse her.

14. During Dhillon's actions, Ms. Hurlbut stated that she was uncomfortable.

15. Dhillon responded by talking about Ms. Hurlbut's tattoos on her body and how much he liked them.

16. Dhillon asked if Ms. Hurlbut had a lower back tattoo and stated that he really liked girls with them and thought they were sexy.

17. Dhillon appeared to get satisfaction from making Ms. Hurlbut feel uncomfortable.

18. Upon leaving the ultrasound lab, Ms. Hurlbut reported the incident to the nurse who picked her up from the lab.

19. Ms. Hurlbut also reported the incident to a treating doctor, who stated that he would make an anonymous complaint.

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20. As a direct and proximate result of Dhillon's actions and inactions, Ms. Hurlbut sustained personal injuries.

21. As a direct and proximate result of Dhillon's actions and inactions, Mr. Hurlbut sustained personal injuries.

IV. CAUSES OF ACTION

INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS

22. Based on the paragraphs set forth and alleged above, by and through the FTCA, 28 U.S.C. §§ 1346(b) and the common law, Plaintiffs bring a claim against Defendant United States, Madigan Army Medical Center, through its employee Dhillon, and John and Jane Does for intentional infliction of emotional distress resulting from the sexual harassment and sexual assault by Dhillon.

23. As a result of Defendants' actions, Ms. Hurlbut suffered severe emotional distress that was so extreme that no reasonable person could be expected to endure it. Her distress was reasonable and justified under the circumstances of Dhillon's actions during the ultrasound procedure.

NEGLIGENCE, HIRING, RETENTION, AND SUPERVISION

24. Based on the paragraphs set forth and alleged above, by and through the FTCA, 28 U.S.C. §§ 1346(b) and the common law, Plaintiffs bring a claim against Defendant United States, Madigan Army Medical Center, and John and Jane Does for the negligent hiring, retention, and supervision of Dhillon.

25. Defendants had a duty to control its employee, Dhillon, for the protection of third parties.

26. Defendants knew or should have known that Dhillon presented a risk of danger to others, including Ms. Hurlbut.

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27. Defendants' negligence in hiring, retention, and supervision of Dhillon caused damage to Plaintiffs.

CORPORATE NEGLIGENCE

28. Based on the paragraphs set forth and alleged above, by and through the FTCA, 28 U.S.C. §§ 1346(b) and the common law, Plaintiffs brings a claim against Defendant United States, Madigan Army Medical Center for corporate negligence.

29. Defendant Madigan Army Medical Center owes an independent duty of care to its patients, including Ms. Hurlbut. This duty includes periodically monitoring and reviewing the competency of health care providers who provide care within Madigan Army Medical Center, selection of employees with reasonable care, and supervision of all persons who provide care within Madigan Army Medical Center.

30. Defendant Madigan Army Medical Center breached its duty and is liable for corporate negligence for its failure to monitor and review the competency of Dhillon to provide health care within Madigan Army Medical Center, its unreasonable selection of Dhillon as an employee, and its failure to supervise Dhillon when he provided healthcare services within Madigan Army Medical Center.

31. Defendant Madigan Army Medical Center's corporate negligence caused harm and damages to the Plaintiffs.

V. PRAYER FOR RELIEF

32. Relief. Plaintiffs respectfully request the following relief:

- A. For special damages for medical treatment expenses, the expenses of medication, and other special expenses, both in the past and continuing into the future, in amounts to be determined at the time of trial;
- B. For all general damages for physical pain and suffering, loss of consortium, resulting from the acts complained of herein;

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1 C. For such reasonable costs, attorney fees, prejudgment interest, and
2 exemplary damages allowed under law; and
3 D. That the Court enter such other and further relief as the Court may deem
4 just and proper.

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7 Dated this 26th day of October, 2022.

8 PFAU COCHRAN VERTETIS AMALA, PLLC

9 By /s/ Thomas B. Vertetis

10 Thomas B. Vertetis, WSBA No. 29805
11 Attorney for Plaintiffs

12 PFAU COCHRAN VERTETIS AMALA, PLLC

13 By /s/ Elizabeth P. Calora

14 Elizabeth P. Calora, WSBA No. 42527
15 Attorney for Plaintiffs

16 PFAU COCHRAN VERTETIS AMALA, PLLC

17 By /s/ William T. McClure

18 William T. McClure, WSBA No. 54622
19 Attorney for Plaintiffs

20 FONG LAW OFFICE

21 By /s/ Eric Fong

22 Eric Fong, WSBA No. 26030
23 Attorney for Plaintiffs

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